

TESTIMONY TO THE SENATE COMMITTEE ON INDIAN AFFAIRS

ON

BUREAU OF INDIAN AFFAIRS AND TRIBAL POLICE

RECRUITMENT, HIRING, RETENTION

BY

IVAN D. POSEY, CHAIRMAN

EASTERN SHOSHONE TRIBE

WIND RIVER INDIAN RESERVATION, WYOMING

Good afternoon. My name is Ivan D. Posey and I currently serve as Chairman for the Eastern Shoshone Tribe on the Wind River Indian reservation in west central Wyoming.

It is an honor to be able to provide testimony on a matter that is so important to the residents of the Wind River Reservation....public safety. I am also honored to provide this testimony to this prestigious committee on Indian issues which includes our own Senator, John Barrasso.

The law enforcement of the Wind River Basin is comprised of a very distinctive law enforcement dynamic. This dynamic is first illustrated in the land base, with the Wind River Reservation consisting of 2.2 million acres or roughly 3,472 square miles with 506 miles of paved roadways that encompasses all of Fremont County and a part of Hot Springs County. Aside from the land base the area has six different law enforcement agencies that have specific jurisdictions within this area. The first is the Bureau of Indian Affairs, Wind River Agency Law Enforcement; whose jurisdiction is primarily within the exterior boundaries of the reservation and specific to enrolled members of a federally recognized tribe. The Wyoming Highway Patrol jurisdiction is specific to 367 miles of state and county roadways and specific to non-Indians within the exterior boundaries of the reservation. The Sheriffs of the counties of Hot Springs and Fremont have jurisdictions within their respective counties and also is specific to non-natives within the exterior boundaries of the reservation. Finally, the police departments of Lander and Riverton have jurisdictions that encompass their respective city limits.

The primary law enforcement agency of the Wind River Reservation is a force created and funded by the Bureau of Indian Affairs (BIA). The Shoshone and Arapaho tribes have a Law and Order Code that stipulates that the BIA Police force shall carry out the orders of the Shoshone and Arapaho tribal courts and in the community enforce the letter and spirit of the code in an impartial manner (S&A Code Title 1-1-4). Some of the regular duties the BIA Police manage is the prompt serving of all notices which the court requests such as arrest warrants, and warrants for search and seizures. The BIA Police currently has 10 active officers which includes a criminal investigator and Chief of Police. The current BIA Law Enforcement model with the Eastern Shoshone and Northern

Arapaho Tribes stipulates seventeen officers, two criminal investigators, and one chief of police for the Wind River Reservation. However, due to the hiring process (background and training) and retention issues, the BIA police force has operated with an average patrolling force of seven officers in the 2004-2009 time spans and currently has seven officers on patrol. The seven officers work shifts that include two officers on duty in the day (6am to 6pm) and four officers on duty in the night (6pm-6am) to service the 2.2 million acres of the Wind River Reservation. Due to the low number of officers on duty at any given time, their work consists primarily of reactive patrolling as opposed to proactive patrolling. Thus, response to calls are prioritized to the most emergent situation, leaving community members waiting for hours, or no response at all, if their call is not deemed an emergency. Another issue that has become prevalent is the availability of officers for court appearances should an individual plead not guilty and the matter goes to trial. Due to daily work demands and scheduling there has been an increase in the number of dismissed cases due to an officer not appearing for court. Most predominant is the 256 driving under the influence arrests made in 2008 with only 68 resulting in convictions.

As you can see Wind River has operated the past five years with half the amount of officers that have been allocated to the area due to the dynamics in hiring, training, and retention. Including an eighteen month period in which the department did not have a chief of police. In examining the hiring process, the obvious starting position is the recruitment process. At Wind River there is not a local recruitment program available for individuals interested in a law enforcement career. Coupled with the computer software used for the applications, the process becomes tedious and unusable due to a lack of technological resources that most local residents do not possess. Once an applicant has

placed an application for an open position a lengthy process begins starting with the selection process. BIA Human Resources is charged with making the selection dependant on qualifications. However, the H.R. for law enforcement for Wind River is also charged with making the selections for not only District V but two other districts as well. Due to the high volume of applicants in each of these districts, selections can take nine months to a year. Depending on whether the applicants accepts or declines the position, the next step is a full background investigation through the Office of Personal Management which depending on the applicant could take several weeks. This does not include if the individual will be required to attend the federal law academy.

Training has typically been an ominous proposition in hiring individuals as law enforcement officers on Wind River. In large part due to the length of time training consists of and in the number of opportunities the training was offered. Up until recently the 17 week Basic Police Officer Training Program offered through the Indian Police Academy was only held three times a year. This limit amount of training opportunities severely hampered getting individuals hired on patrol and created a bottle neck in the process. It was encouraging to hear that the BIA has recently increased the amount of training program opportunities from three times per year to fourteen in effort to streamline the process. However, some individuals serving in other law enforcement fields are often deterred from applying with the BIA due to their certifications not being recognized particularly the state law enforcement academies. Even though twenty-two state academies are recognized through the BIA it limits those individuals who have certifications from states that are not recognized.

Finally, retention is greatly affected by the lengthy hiring and training process with

open positions not being filled in a timely manner it puts a strain on the law enforcement officers that are already on patrol. As mentioned above the long work shifts with little or no time off wears on the officers to the point of burn out which affects their ability to perform in a consistent and effective manner. Thus, weakening the departments' ability to serve and protect the communities that they are assigned. This situation eventually leads to transfer requests or worse yet, resignations which in turn creates a perpetual cycle of hiring and training. In addition to burnout, retention is thwarted by the limited amount of housing or the lack of maintenance/upkeep of the available housing by Facilities Management. The housing issue often leads officers to pay extra for housing that is supposed to be provided as part of their duty assignment. This is particularly problematic in small rural communities such as Wind River, where housing is limited due to the availability and/or lack of development. One of the least discussed areas affecting retention is bred out of the nature of the work itself. It is not uncommon for the average law enforcement officer to experience the very worst of a communities' social ills. This includes but is not limited to handling situations spawned from substance use and abuse or handling of situations in which accidents occur that result in death. Experiencing a trauma directly or indirectly adversely affects an officers psyche which may have longer lasting affects in his/her professional or personal life. Currently the BIA does not have any stress management counseling to offer its officers to assist in managing situations that they may experience in the line of duty.

The BIA has taken steps over the course of several years to address the areas of concern that have mentioned above however the process needs to be continually addressed and streamlined. The common practice of detailing officers from other BIA or Tribal

departments to those departments deficient in the number of officers on patrol has been an effective means of addressing the problem in the short term. However, the temporary fix in of itself does present some logistical issues. Most prevalent is invoking the “take from Peter to pay Paul” principle in which the shifting officers from one department to another only weakens the department in which the officers are based. A detail assignment typically only lasts thirty to forty-five days in duration, with half that time being used for the “foreign” officer adjusting to the laws and policy of the local area. An inevitable situation that is commonplace is the detailed officer making an arrest and the perpetrator pleads not guilty and is scheduled to trial. The situation may call for the detailed officer to testify well after the officer has completed his/her detail and has returned to their base department. The cost to return to the area for testimony is not covered by the department or is absorbed by the local prosecutor’s office with the latter unable to incur that cost. This adds to the cases that are dismissed and affects convictions rates much like what was discussed earlier with the low number of convictions for DUI in 2008 for Wind River.

Hiring, training, and retention of law enforcement officers are areas in which the tribes of Wind River have identified as ongoing areas of concern. The Joint Business Council of the Eastern Shoshone and Northern Arapaho have taken the initiative to address these issues by first waving the Indian Preference criteria for BIA Law Enforcement Officers serving in Wind River on September 2009. This was made in an effort to broaden the selection process and increase the amount of applicants for the open positions. In addition the Joint Business Council created a Wind River Law Enforcement Commission that is charged with making all decisions concerning employment and discharge of tribally funded law enforcement officers. The hiring process that was

instituted allowed for the hiring of two law enforcement officers to be on patrol within a three month span. Even though this process included the hiring of two individuals that were already certified the individuals received full background investigations and given clearance for duty. Thus laying the foundation for a hiring process that is expeditiously efficient in comparison to the current BIA process.

The Eastern Shoshone and Northern Arapaho Tribes are working cooperatively with surrounding law enforcement agencies to assist in creating a tribally driven law enforcement model for the reservation. This may include districting the reservation and have law enforcement officers stationed in areas that need consistent coverage.

Currently the jail facilities are located in Fort Washakie where a officer may need to travel 30 miles to respond to a call. The law enforcement agencies have been very supportive and continue to participate in this important process.

In closing, there are several issues that can be addressed to make the system more effective.

The first is having the hiring process done at the local level to alleviate the cumbersome process that currently exists. Second, re-establish Special Response Teams (SRT) to address shortfalls and high priority issues on reservations. This would help address officers being pulled from their duty stations and detailed elsewhere. Third, assist tribes to establish educational training for new officers to learn about the area they will serve.

Lastly there needs to be access to counseling options for tribal and B.I.A. officers that experience traumatic experiences. For our officers to be able to provide public safety to our citizens they need to be able to care for their needs foremost.

Thank you for your time and attention to this important issue and with the prayers of our

Elders and community our homelands can overcome these concerns that have plagued our tribal communities for too long.